



The Hickory Regional Planning Commission will hold its regular meeting on **Wednesday, July 27, 2016 at 6:00 p.m. in the City Council Chambers of City Hall**. The following will be the agenda for the Regular Meeting:

AGENDA

- Parliamentary Call to Order
- Welcome
- Roll Call
- Annual Election of Officers
- Items of Correspondence
- City Council Action
- Approval and Signing of Minutes from the May 25, 2016 Meeting

PRESENTATIONS AND PUBLIC HEARINGS

1. **Rezoning Petition 16-04.** Rezoning request by GTC Investments, LLC for the consideration of the rezoning of approximately six (6) acres of property located at 3165, 3179, and 3181 S NC 127 Hwy from Low Density Residential (R-1) to Commercial Corridor (CC-2). These properties are shown in more detail as PINs 2791-14-42-9844, 2791-14-42-0860, and 2791-18-42-3423 on the Catawba County G.I.S. maps.
2. **Rezoning Petition 16-05.** Request by FJS & JG, LLC for the consideration of the rezoning of approximately one (1) acre of property located at 5251 Hickory Boulevard from General Business (C-2) to Medium Density Residential – 2 (R-2). This property is shown in more detail as PIN 2793-39-9764 on the Caldwell County G.I.S. maps.

OTHER BUSINESS

1. Appointment of member to HBC 2030 update subcommittee (vacancy due to Mrs. Clemmons's departure from the Planning Commission)

The Hickory Regional Planning Commission does not discriminate on the basis of disability in the provision of its service as charged by the City Council of the City of Hickory. All meetings are held in accessible facilities. Any person with a disability needing special accommodations should contact the Planning Department at telephone number (828) 323-7422 at least 48 hours prior to the scheduled meeting.

Attendance Roster	
FY 15-16	
Hickory Regional Planning Commission	
Catawba County	Jeff Kerley
Longview	Randall Mays
Catawba County	John Eldridge
Burke County	Vacant
Brookford	Vacant
Caldwell County	James Noggle
Ward 1	Bill McBrayer
Ward 2	Barabra Clemons
Ward 3	Junior Hedrick
Ward 4	Sam Hunt
Ward 5	Wallace Johnson
Ward 6	Shanua O'Brien

Key	A Absent AX Excused						No meeting		
	P Present						Vacant/Not yet appointed		
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
						P		P	P
		P		P		P		P	P
		P		AX		AX		AX	P
		P		P		P		P	P
		AX		AX		P		P	P
		P		P		P		P	P
		P		P		P		P	P
		A		P		P		P	P
		P		P		P		AX	P
		P		P		P		AX	A

HICKORY REGIONAL PLANNING COMMISSION
4th Wednesday, 6:00 pm, Municipal Building, City Council Chambers

Representation	Name and Address	Phone and E-mail	Appointed Current Term	Current Term Expires
Ward 1	Bill McBrayer 446 17 th Avenue Drive NE Hickory, NC 28601	397-8922 (cell) 397-4661 (office) 850-9362 (cell) bmcbayer@lexington.com	June 2013	July 2016
Ward 2	Vacant			
Ward 3	Junior Hedrick 1450 25 th Street NE Hickory, NC 28601	(h) 256-8404 (w) 381-6700 jrhedrick12@charter.net	June 2014	July 2017
Ward 4	Samuel Hunt 626 9 th Avenue Drive SE Hickory, NC 28602	328-5013 320-1563 ridge1942@hotmail.com	June 2015	July 2018
Ward 5	Rev. Wallace Johnson 335 6 th Street NW Hickory, NC 28601	322-4471 gwallacejohnson@gmail.com	June 2014	July 2017
Ward 6	Shauna O'Brien 1618 5 th Street Drive NW Hickory, NC 28601	322-3744 kjsjob@charter.net	June 2016	July 2019
Town of Brookford	Vacant			
Town of Longview	Randall Mays (Chair) 2251 15 th Avenue SW Hickory, NC 28602	327-0135 mays_randall@yahoo.com	June 2014	July 2017
Burke County	Vacant			
Caldwell County	James Noggle 6727 Lakeview Terrace Hickory, NC 28601	757-2217 jrnoggle@ci.lenoir.nc.us	June 2015	July 2018
Catawba County	Dr. John Eldridge 364 39 th Avenue Drive NW Hickory, NC 28601	328-9974 324-6235 joulinna@earthlink.net	June 2014	July 2017
Catawba County	Jeff Kerley 2203 Hounds Way Hickory, NC 28601	828-312-8442 828-322-6175 (office) jeff@jkgrading.com	June 2015	June 2018

Hickory Regional Planning Commission
Wednesday, May 25, 2016, 6:00 pm

A regular meeting of the Hickory Regional Planning Commission (HRPC) was held on Wednesday, May 25, 2016, 6:00 pm, in Council Chambers of the Julian G. Whitener Municipal Building, Hickory NC.

Members Present: Randall Mays, Bill McBrayer, Jeff Kerley, Barbara Clemons, Junior Hedrick, Shauna O'Brien, John Eldridge and Sam Hunt

Members Excused: Wallace Johnson

Members Absent: Jim Noggle

Others Present: Director of Planning and Development Services Brian Frazier, Principal Planner Cal Overby, Planner Ross Zelenske, Deputy City Attorney Arnita Dula and Minutes Clerk Anne Starnes

Parliamentary Call to Order & Welcome: Randall Mays, Chairman, called the meeting to order at 6:00 pm and welcomed everyone present.

Roll Call: Director of Planning and Development Services Brian Frazier stated a quorum was present, and Wallace Johnson was excused.

Items of Correspondence: Mr. Frazier said that Ms. Clemons, Ms. O'Brien and Mr. McBrayer are all up for reappointment to the Commission at the end of June. He said Ms. O'Brien and Mr. McBrayer have both expressed interest in being reappointed, but Ms. Clemons would be leaving the Commission.

City Council Action: none

Approval and Signing of Minutes from the April 27, 2016 Meeting: Minutes of the previous meeting were distributed to members in advance. No changes, additions or deletions to the minutes were stated. Jeff Kerley moved, seconded by Barbara Clemons, to approve the April 27, 2016 meeting minutes as written. The motion carried unanimously.

Mr. Mays said two public hearings were on the agenda tonight.

PRESENTATIONS AND PUBLIC HEARINGS

1. Rezoning Petition 16-03. Request by Hilton Materials, LLC for the consideration of the rezoning of property located at 1360 11th Avenue SE, from Regional Commercial (C-3) to Industrial (IND). The property is shown in more detail as PIN 3712-14-43-2806 on the Catawba County G.I.S. maps.

Cal Overby presented the Staff Report and referred to PowerPoint slides during his presentation. Referring to slide #2 Mr. Overby said the request is being made by Hilton Materials and their agent Monroe Pannell, to rezone approximately 8-acres of property, located at 1360 11th Avenue SE, from Regional Commercial (C-3) to Industrial (IND).

Referring to slide #3, (Map 1. HBC 2030 Future Land Use) Mr. Overby said the Hickory by Choice Future Land Use map shows a large swath of industrial property, between Lenoir-Rhyne Blvd. and

McDonald Parkway, with industrial development located within this area. He pointed out the Commercial, Industrial, General Business and Residential areas included on the map.

Referring to slide #4, Mr. Overby said the Industrial (IND) district implements the “Industrial” policies of the Hickory by Choice 2030 Comprehensive Plan. The Industrial (IND) district is characterized as being a district intended to provide locations for development of land-uses generally devoted to manufacturing, processing and assembly, warehousing, distribution and serving enterprises and office activities. This is the intent of these areas identified on the Future Land Use map. He said staff has found the rezoning of the subject property to Industrial is consistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

Referring to slide #5, (Map 2. 2014 Aerial Photo) Mr. Overby said this aerial photograph from 2014 shows the subject property, a small manufacturing facility, Martin-Marietta Materials, and their current mining operation. He said some members may recall that Martin-Marietta had their permits approved and updated, to actually mine this area in the future, so that is down the road at some point. He was not sure of the timeframe for the transition.

Referring to slide #6, (Map 2A. Aerial Photo – Google earth) Mr. Overby noted other nearby businesses, including Charter Communications, a restaurant, gas station, car dealership, Oak Design, the Maymead Asphalt Plant, and two single-family residences, one of which operates a home-based business. He said members may recall there was a small mobile-home park beside the future Martin-Marietta expansion site, which is property they now own.

Referring to slide #7, (Map 3. Current Zoning) Mr. Overby said that, with regards to zoning in this area, the Industrial area is represented by the large purple area, and that Regional Commercial is nearby along Lenoir-Rhyne Blvd. and I-40, with some legacy residential areas (Medium Density Residential) also along Lenoir-Rhyne Blvd.

Referring to slide #8, (Zoning History) Mr. Overby discussed the history of zoning on the property, which was zoned ED, an old designation for Economic Development going back as far as he could tell, to the 1960s or 1970s. In 2000, the previous owner petitioned to have the property rezoned to C-4 Commercial. Neither of these zoning districts exists in the City’s current Land Development Code. In 2001, a different owner rezoned the property as Mixed Use, planning for some office and multi-family development, and the property has sat there until now.

Mr. Overby said that in 2011, when the City adopted their current zoning map, it was assigned Regional Commercial, which is comparable to the Mixed Use zoning, and characterized as being a commercial district intended to provide a full range of retail and services businesses that serve both local and regional markets. Hilton Materials, LLC acquired the property in January 2016, with the understanding it would need to be rezoned from Commercial to Industrial, in order to fulfill their desired use of the property.

In closing, Mr. Overby referred to slide #9 (Recommended Action) and said staff finds the request to be consistent with the Hickory by Choice 2030 Comprehensive Plan, and recommends the HRPC adopt a statement affirming the petition’s consistency with HBC 2030, and forward a recommendation of approval to the Hickory City Council. He asked for questions from members.

Mr. Mays asked about the two single-family residences that exist, adjacent to the subject property. He asked what would happen if one of those residences were to burn – could they re-build on the same site, as a residential dwelling. Mr. Overby said they must rebuild within 180 days, to the best of his memory. He said the two residential properties were zoned Commercial back in the 1980s, when at some point it

was determined this area was no longer Residential, and they were basically grandfathered in where they are now.

There were no additional questions for Mr. Overby.

Mr. Mays opened the Public Hearing. He said the persons in favor of the petition would be asked to speak first, and then the persons opposed, followed by rebuttal time.

PROPONENTS

Monroe Pannell addressed Commission members, saying he is a lawyer in Conover and here to support the staff's recommendation. He said the area is clearly an intense industrial area and it fits in with Hickory by Choice. He said the staff report was very on-point, and it is a matter of circumstance that the property ended up as a commercial property, rather than an industrial property, given its location across from the quarry and Maymead Asphalt, two of the most intensive industrial uses present in Hickory. He said that he signed up the land owner Kip Hilton as a speaker, in case there is a question for him to answer.

Mr. Pannell asked for any questions from members.

Dr. Eldridge asked if there are any current plans for the property. Mr. Pannell said yes, there is discussion regarding timber removal. There is also discussion about removing other materials, in particular soil, and he noted they would come back to request a Special Use Permit from the Board of Adjustment, if they proceed with this use. He said certain grades of soil are needed for construction projects. Also, possibly having an open storage mulch operation is being considered for the property, but near-term plans are for timber removal. Mr. Mays advised him that, as a matter of information, if they do decide to request a Special Use Permit, it would also be heard by the Planning Commission, not the Board of Adjustment.

There were no additional questions for Mr. Pannell.

Kip Hilton addressed Commission members, saying that he is in the grading business and from Granite Falls in Caldwell County. He was looking for a site in Hickory to place materials, maybe mix some dirt, and this seemed like an ideal spot, right beside the asphalt plant and rock quarry.

Mr. Mays asked if there were any questions for Mr. Hilton, and there were none.

OPPONENTS

None

The Public Hearing was closed.

There was no further discussion on the petition, and Mr. Mays asked if there was a motion to approve or deny the request.

John Eldridge moved, seconded by Bill McBrayer, to approve Rezoning Petition 16-03. By a show of hands, the motion carried unanimously.

Mr. Mays stated the request was approved by the Planning Commission, and would be forwarded to Hickory City Council for final approval.

2. Special Use Permit (SUP) 16-02. Request by Akeshia Mack for the consideration of the expansion of an existing residential daycare in a High Density Residential (R-4) district. Specifically, the request is for approval to operate a residential daycare, which serves six (6) or more clients. The subject property is located at 1210 5th Avenue SW, and is shown in more detail as PIN 2792-08-97-3616 on the Catawba County G.I.S. maps.

All speakers were sworn in by the Minutes Clerk.

Ross Zelenske presented the Staff Report and referred to PowerPoint slides during his presentation. Referring to slide #11, Mr. Zelenske said the applicant is Akeshia Mack, and her property is located at 1210 5th Avenue SW, which is in the West Hickory neighborhood. He said the current zoning for the property is R-4, High Density Residential, and the property is approximately .28 acres. The consideration is to expand a home-based day care from five (5) to eight (8) clients. He said six (6) or more clients requires a Special Use Permit.

Referring to slide #12, (Map 1: Aerial Photo) Mr. Zelenske said the property, outlined in red, has predominately single family residential surrounding it, with some multi-family apartments to the east, and Highway 321 to the north. He pointed out there is a private driveway coming from 13th Street Court SW, and he would come back to this later.

Referring to slide #13, (Map 2: Hickory by Choice 2030) Mr. Zelenske said the current Hickory by Choice Future Land Use map specifically locates this area in a Revitalization Area; most likely because the map does not take into account property lines, it is a general area. He noted that around the Revitalization Area is Medium Density Residential.

Referring to slide #14, (Map 3: Zoning) Mr. Zelenske said the current zoning of the property is R-4, or High Density Residential, which is what all of the surrounding neighborhood is zoned, except for an area of C-2 (General Business) across Highway 321.

Referring to slide #15, (Map 4: Overlay Zoning) Mr. Zelenske said there is an Overlay Zone here, the Green Park Neighborhood Preservation Overlay, which deals with in-field development, changes and increases in density or intensity, and there is no particular criteria involving daycares in this Overlay.

Referring to slide #16, (Special Use Criteria – Consistency with the Hickory by Choice 2030 Plan) Mr. Zelenske said there are seven (7) criteria that need to be evaluated before approval can be granted. The first is consistency with the Hickory by Choice 2030 Plan. As previously noted, the property is located in a Revitalization Area, which basically is a diverse mix of light industrial, commercial and residential uses, typically located along rail corridors or busy, disinvested corridors. This designation is intended to help with redevelopment and expansion by applying flexible standards and targeted incentive programs, and the R-4 zoning is included on the list of designations.

Referring to slide #17, (Special Use Criteria – Compliance with the City’s Land Development Code) Mr. Zelenske said daycares have three (3) specific criteria, one of which regards 30-person daycares and does not apply here, while the other two do apply. The first criteria, providing a paved driveway providing adequate vehicle stacking and turn around areas for pick up and drop-off of children or adults, is currently being met by the paved driveway located at the front of the home off 5th Avenue SW, which appears able to stack four (4) vehicles at one time, in addition to a garage that will hold two additional vehicles. As mentioned earlier, he said there is a driveway to the rear of the property, but the applicant advised him they do not plan to use that rear access driveway for pick-up or drop-off. The second criteria is,

submitting evidence that the requirements and standards of the NC Department of Health and Human Services have been and continue to be met. He said North Carolina's daycares are regulated by that department, and since the applicant has operated a daycare since September 2015, she is licensed through them. She is in the process of meeting the necessary additional requirements for up to eight (8) clients, but must receive zoning approval first, prior to obtaining the new license.

Referring to slide #18, (Special Use Criteria – Compatibility with Adjacent Uses) Mr. Zelenske said the proposed use will add an additional three school-aged clients to the existing five clients. The daycare will not modify the existing single-family dwelling in any manner that is evident from the exterior of the home. The applicant specifically stated that no changes are planned with this expansion.

The daycare has and will continue to operate from 6:30am to 11:30pm, covering first and second shifts, although it is licensed through the State for all three shifts. The applicant has stated that she has not received any complaints from neighbors since opening.

Referring to slide #19, (Special Use Criteria) Mr. Zelenske said, regarding mitigation of significant impacts, any additional identified negative impacts on neighboring properties and the environment shall be mitigated to the fullest extent required by all applicable laws and regulations. Regarding negative property impacts, the daycare operation is already an existing use and staff has not received any information indicating that the expansion to three more clients would cause a substantial diminution in value of other properties in the area.

Referring to slide #20, (Special Use Criteria – Levels of Service Available) Mr. Zelenske said levels of service will be available, including police, fire, utilities, and so forth. The Fire & Life Safety Division did provide two comments and conditions: First, residential daycare occupancies are allowed to have five (5) preschool age children and three (3) school-aged (K-12) children, for a total of eight (8) children who are unrelated to the operator; and, second the preschool number cannot exceed five (5), and the three (3) additional children must be school-aged and for after school care only. This coincides with the licensing requirements set by the State.

The Solid Waste Division provided the following comments and conditions: If garbage output exceeds the capacity of a single rollout container on a regular basis, Solid Waste will contact the property owner about recycling efforts to reduce garbage output and may require an additional fee for more rollouts. Mr. Zelenske said the Police Department, Traffic Division, Engineering Division, and all other departments that reviewed the request stated they do not anticipate any issues from the increased use.

Referring to slide #21, (Special Use Criteria) Mr. Zelenske said, regarding assurances of continued maintenance, the future operation of the principal and accessory uses shall be maintained in conformance with all applicable development standards, specifically Section 9.16, Property Maintenance, of the Hickory Land Development Code. Regarding additional requirements, the applicant will be required to provide documentation of approval required by the State of North Carolina's Health and Human Services Department. As previously noted, he said the applicant is currently licensed for five (5) clients and now in the process of obtaining a new license, pending the outcome of this SUP.

Referring to slide #22, (Staff Recommendation) Mr. Zelenske said Staff recommends approval of the Special Use Permit for the proposed eight (8) client daycare with the following conditions:

1. All aspects of the project, and its subsequent improvements, shall comply with all applicable provisions of the City's Land Development Code, and the Building and Fire Codes of the State of North Carolina.

2. The operation of this facility must comply with all state and local regulations pertaining to childcare facilities. No more than five (5) preschool-aged children and three (3) school-aged children, unrelated to the operator, may be permitted.
3. The daycare shall be subordinate to the principal residential use.
4. No signage related to the daycare shall be permitted.
5. The facility shall at all times adhere to applicable noise and lighting standards.

Mr. Zelenske asked for questions from members.

Mr. Kerley said that Mr. Zelenske stated the daycare would operate during first and second shifts, and does that mean they can have eight (8) children during first shift and eight (8) during second shift, which is a total of 16 per day. Mr. Zelenske said the maximum would be a total of eight (8) at any one point in time, and they are licensed to operate only between those hours. Mr. Kerley said, so you are not saying they could have eight (8) kids during first shift, and they leave and another eight (8) kids come in – it's eight (8) all day, a total of eight (8). Mr. Zelenske said yes.

Mr. McBrayer said this agenda information was mailed to members on May 17th and today is the 25th, so have staff received any calls of concerns since the 17th. Mr. Zelenske said he had received a phone call from one person concerned about the impact from noise and traffic, and he received another call from a person asking if there would be any facility expansions or construction.

Dr. Eldridge said she only plans to operate two shifts of eight hours, but could she operate three shifts, and Mr. Zelenske said yes, in theory she is licensed for all three shifts, and could operate for 24-hours. Mr. Mays said the requirement limits her to eight (8) children at any one time, who are unrelated to her.

Mr. Kerley said Mr. Zelenske is saying eight (8) at any one time, so could one leave and another come and take their place. If that continued throughout the day, there could be 32 children. Mr. Zelenske said he assumes this would be allowed.

There were no additional questions for Mr. Zelenske.

Mr. Zelenske submitted the Staff Report to the Minutes Clerk, entered into the record as Exhibit A.

Mr. Mays reminded Commission members that this is a quasi-judicial hearing. He said any persons who are going to speak tonight must be sworn in by the Clerk, and any evidence they want to present must be given to the Clerk. As stated earlier, he said proponents would go first, then the opponents, and rebuttal time would follow.

Mr. Mays opened the Public Hearing.

PROPOSERS

Akeshia Mack addressed Commission members, saying she is the owner of Loving Arms Christian Childcare. She is not here to create more traffic, her purpose is to help mothers who already have children enrolled with her, and who have school aged children who want to attend; these mothers are limited by Ms. Mack only being able to have five (5) children at one time. The purpose of her wanting to be able to have three (3) more school aged children is to allow a mother to have all of her children there – the child already enrolled in her daycare, plus the school aged child, with nowhere else for the mother to leave them. Also, the mother can have her children all in the same place, together. Ms. Mack said she was not going to have 32 children, because that is not her purpose; her purpose is to have just eight (8) children. She is there by herself, and she cannot take ownership of that many children. She said her sole purpose is

just to help mothers with school aged children who need somewhere to go, where they have another child already enrolled, and both of their children will be in the same place, not going to different places. She is not interested in 32 children, not even 15 children, she only wants to have eight (8) children and, even if it is allowed over 24-hours, she does not want to overextend herself, being all alone. She wants to take care of the children in quality (terms), and does not want to exceed what is safe. So this is her sole purpose, not to generate more traffic or noise, just to help parents out when they have more than one child.

Mr. McBrayer said that she stated she is the only employee, and asked if the regulation says one adult per five (5), or one per eight (8) – would there be another adult there. Ms. Mack said the State allows her to have up to eight (8) children by herself. He asked if that was any age of child, and she said her license is for children aged 6-weeks up to 12 years. He said if this passes, could the other three (3) children be K-12, as school aged children, and she said yes. Mr. Mays asked if her application is only for K-12 years of age, and she said that is what she is licensed for, she can have up to five preschool aged children. She said if she has three (3) preschool aged children, then she could have five (5) more children up to age 12.

There were no additional questions for Ms. Mack.

Jafus Mack had signed up to speak, but declined.

There were no other speakers in favor of the petition.

OPPONENTS

Deborah McNeur addressed Commission members, saying she was a neighbor, and speaking on behalf of herself, her mother, and another neighbor. She lives one avenue over from the daycare, and her mother lives around the corner. She said, as neighbors, they are not concerned about Mrs. Mack and her daycare, but do have concerns about the future use of the area, with the zoning and the daycare business. She said that for about 20 years a couple of real estate agents have been looking at their area and tried their best to get both sides of 13th Street rezoned as Commercial property. They started right beside her 20 years ago, when the zoning was changed to O&I, so that her neighbor Mr. Blajh could have more music students, to exceed the number he could have under Residential zoning. She said there is one real estate agent who has been patiently waiting for people to actually die in the neighborhood, so he can try to get the property, and change the zoning with new people coming in.

Ms. McNeur said they are concerned about all of this, because they do not know what the future use will be – they know that under Hickory by Choice, it could very well change. They are also concerned because this is a flood area, due to the median on 13th Street. She said you have to go all the way around the block and down 5th Avenue, which can get busy at times, a dead end street, and the police were called out there just a couple of nights ago, due to domestic violence in the Grandview Terrace Apartments. Mrs. Mack's neighbor, two houses up from her on the corner, got his car windows bashed in by some people who live in the apartments. She said there is also a wildlife problem, which she testified about at City Council not that many months ago – there was a rabies case in the neighborhood last summer, and raccoons with raccoon roundworm, which is more deadly than rabies. The area is groundhog heaven at the dead end of the road, at Highway 321, they are getting concerned about the safety of the neighborhood and so much busy activity, plus they wonder what the future zoning will be.

Ms. McNeur said the gentleman said earlier that the daycare would not be using the driveway that goes around behind their house, which is correct, because it belongs to another of the neighbors. She said it is not that they do not want Mrs. Mack to have her business, but they have these many concerns and want them known. They are concerned about the safety of the kids, the zoning of the neighborhood with the

things that have been tried in the past, and possible eminent domain in the future, which they are very worried about.

Mr. Mays said this petition does not affect the zoning in that area whatsoever; the zoning will not change in regards to Ms. Mack expanding her home-based business. He said this is a Special Use Permit, which allows her to carry on with her business, but expand it a little bit. The Residential zoning is not affected in any way. Ms. McNeur said they do understand that, and they know what they have been told, but they also know what has happened to them in the past – what some people say that they have plans for in the future, and that they can be very patient and wait, with one guy waiting for 20 years now. Mr. Mays said this would not affect any of that at all, everything will remain the same; this simply allows her to operate with three (3) more children – and as Ms. McNeur heard, Ms. Mack cannot put out a sign saying she has a daycare, so there is no relevance to any commercialization whatsoever. It will continue to be her home and she will continue doing what she is doing now, only with three (3) more children, school aged.

Ms. McNeur asked if there would be any fencing required, like for any other daycare. Mr. Mays said Ms. Mack must meet the requirements of the NC Dept. of Health and Human Services, and if that is what their requirements are for her expansion, then yes she will, but the Planning Commission does not control that, that is up to the Department giving her the permit for three (3) additional children. Ms. McNeur said they understand that, but are concerned about all of the other issues, beyond the zoning issue – the safety, the wildlife, the fact it gets very congested on 5th Avenue at times, the dead end, and all of the things happening that the police are called out for at the end of the road.

Mr. Mays asked if there were any additional questions for Ms. McNeur.

Mr. McBrayer asked Ms. McNeur to explain again where she lives, and she explained her location, saying she can see the new Long View Elementary School from her front yard, and that she is right across the street from Auto Finders, which used to be the Hot Rod Barn.

Ms. McNeur asked about the Green Park Overlay, saying they are in the West Hickory/Westmont Neighborhood, and she did not understand when they were talking about this earlier. Mr. Mays said what they have is a neighborhood preservation, for an area of older homes, and it all falls under the category of Green Park. Because it is a large expanse of area, it all falls in the outer boundaries of that neighborhood preservation area. Mr. Mays said there are a number of them in Hickory. Ms. McNeur thanked him for the explanation.

There were no additional questions for Ms. McNeur.

There were no other speakers in opposition of the petition.

Mr. Mays said if there were no additional questions or speakers, there would now be time for rebuttal.

REBUTTAL - PROPONENTS

Mr. Mays asked if Ms. Mack wanted to present rebuttal to the testimony, and she said no.

There were no additional questions for, or further comments from, the proponents.

REBUTTAL - OPPONENTS

Mr. Mays asked if Ms. McNeur wanted to present rebuttal to the testimony, and she said no.

There were no additional questions for, or further comments from, the opponents.

The Public Hearing was closed.

Mr. Mays reminded members that this is a quasi-judicial hearing, and they had heard the staff presentation and testimony of the proponents and opponents. He asked if there was any discussion.

Mr. Hunt asked if there is a license requirement for fencing. Ms. Mack returned to the podium and said no, fencing is not a requirement by the State for a residential daycare.

Mr. Kerley asked Ms. Mack to clarify what is being discussed here – is it a total of eight (8) children in a 24-hour period, or cycle. Ms. Mack said yes. He said it is not eight (8) during one shift, then another eight (8) for the next shift, and Ms. Mack said no, it is not. She said that right now she is not even full, with only three (3) children currently. She simply wants to be ready and have something in place, according to the law, just in case a mother has more than one child and wants her school-aged children to come with her younger child.

There were no further questions, and no further discussion on the petition.

Mr. Mays stated that as a quasi-judicial hearing for a Special Use Permit, and members have heard the staff presentation and the petitioner, and have asked questions in regards to the petition. Mr. Mays asked for a motion to approve, deny, or modify the petition.

Sam Hunt moved, seconded by John Eldridge, to approve Special Use Permit 16-02.

Mr. Mays again stated this is a quasi-judicial hearing, and members would vote individually, stating to either approve or deny Special Use Permit 16-02, and they should base their findings on the staff report, evidence, testimony, findings of fact, or other information they received.

Mr. Hunt voted in favor of SUP 16-02, based on the staff recommendation and review of criteria, and the testimony of witnesses.

Dr. Eldridge voted in favor of SUP 16-02, based on the recommendation by staff and testimony of the applicant.

Ms. O'Brien voted in favor of SUP 16-02, based on the staff recommendation, and fact the applicant has met the necessary criteria.

Mr. Mays voted in favor of SUP 16-02, based on the applicant having met the Hickory by Choice criteria.

Ms. Clemons voted in favor of SUP 16-02, based on the staff presentation and recommendation, and that the applicant has met the criteria.

Mr. Kerley voted in favor of SUP 16-02, based on the fact it meets the requirements of Hickory by Choice, and the staff recommendation.

Mr. McBrayer voted in favor of SUP 16-02, based on all of the facts presented here tonight, and the recommendation from staff.

Mr. Hedrick voted in favor of SUP 16-02, based on the finding of facts, testimony given, and that the conditions stated by staff were met.

Mr. Mays stated the Special Use Permit 16-02 was unanimously approved by the Hickory Regional Planning Commission, and for as long as Ms. Mack meets the State requirements for her permit.

OTHER BUSINESS

Mr. Mays asked if there was any other business for the Commission.

Mr. Frazier said a representative is needed from the HRPC to serve on the Community Appearance Commission, as Mr. Hunt's term has expired and he is not eligible to be reappointed. Mr. Hunt said he had enjoyed serving over the years. Mr. Overby is the staff liaison, and he said the Commission meets at 4:00 pm. Mr. Hedrick volunteered to serve.

Sam Hunt moved, seconded by Bill McBrayer, to appoint Junior Hedrick as the HRPC representative to the Community Appearance Commission. The motion carried unanimously, with Mr. Hedrick abstaining.

Mr. Mays thanked Mr. Hedrick for volunteering to serve.

Mr. Frazier reminded members, in regards to ex parte communication, saying that if someone contacts them regarding a question, about a Board of Adjustment (BOA) variance, or any other question, that no discussion should take place with that person. He said the same goes for a special use permit that is coming before the Planning Commission, which is a quasi-judicial hearing. If it is an application for a rezoning request, this is **not** ex parte communication, but he would strongly advise members not to enter into a conversation with the individual. Mr. Frazier said it is not a good idea, regarding ethics, especially if it is an application that staff has not yet received for review. He said it is a public perception and an ethical challenge, and staff respectfully asks applicants and/or developers or property owners not to discuss such matters with Planning Commission/BOA members, whether it is, or is not, ex parte communication. Deputy City Attorney Arnita Dula said that regarding legislative matters, they encourage Commission members to keep an open mind, even after the requests do come forward, and receive testimony with no set opinions.

Mr. Mays asked if there was any additional business to come before the Commission, or matters a member would like to discuss, and there were none.

Adjourn: Bill McBrayer moved, seconded by Sam Hunt, to adjourn. There being no further business, the meeting adjourned at 6:50 pm.

Randall Mays, Chairman
Hickory Regional Planning Commission

Anne Starnes, Minutes Clerk
City of Hickory

REZONING ANALYSIS

PETITION: Rezoning 16-04

APPLICANT: Gerooge Condeelis, Joseph Condeelis, Dianne Davenport, and Rosemary Penland

OWNER: Rosemary Condeelis Revocable Living Trust, George Condeelis Trustee, and GTC Investment Properties LLC

AGENT: George Condeelis

PROPERTY LOCATION: 3165 S NC 127 HWY, 3179 S NC 127 HWY, and 3181 S NC 127 HWY

PIN: 2791-14-42-9844, 2791-14-42-0860, and 2791-18-42-3423

WARD: The subject properties are located in Ward 4 (Councilman Guess).

ACREAGE: Approximately 6.60 acres (287,496 ft²) of the aggregate 29.65 acres have been requested to be rezoned (Note: This information was taken from the most recent Catawba County tax map data.)

REQUESTED ACTION: The applicants have submitted a petition requesting to rezone a portion of each of the subject properties from Low Density Residential (R-1) to Commercial Corridor (CC-2). The area to be rezoned is adjacent to Highway 127 South, while the majority of the properties will remain zoned R-1.

DEVELOPMENT POTENTIAL: The Commercial Corridor (CC-2) district allows for a variety of commercial and residential uses. Commercial development within this zoning district is intended to be automobile oriented with pedestrian accommodations. Properties zoned CC-2 are permitted to develop at a maximum floor area ratio of 0.85, which means 0.85 square feet of floor area could be provided for every one (1) square foot of land area contained within the parcel. In this particular instance the rezoned area could yield a maximum of 244,371.6 ft² of floor area $[(6.60 * 0.85) * 43,560]$. It should be understood this number is a theoretical maximum, and other regulatory requirements for building setbacks, parking, buffering, and similar items could substantially decrease this maximum intensity. Although the rezoned area would be commercially zoned, residential development would remain an option. Single-family residential must be approved through a Special Use Permit, while duplexes and multi-family are permitted by right. Multi-family development is allowed to be developed at a maximum density of thirty (30) dwelling units per acre. In this particular instance, a maximum of 198 dwelling units $(6.60 * 30)$ could be constructed. The CC-2 zoning district has a maximum height limitation of 40 feet, therefore any new structures would not exceed three stories.

BACKGROUND: The applicants have submitted a petition requesting the properties be rezoned to Commercial Corridor (CC-2). The applicants have not provided an anticipated use at this time. The properties are largely undeveloped, but include a single-family dwelling, an apartment unit, two barns, and a building for a commercial trucking company.

REVIEW CRITERIA: In reviewing and making recommendations on proposed zoning map amendments, review bodies shall consider the following factors:

1. Consistency of the proposed zoning with the *Hickory Comprehensive Land Use and Transportation Plan* and the stated Purpose and Intent of this Land Development Code **(Please refer to Map 1 for more detail)**;

The Hickory by Choice 2030 Comprehensive Plan classifies the area fronting S NC 127 Highway as Commercial Corridor and everything beyond that as Low Density Residential.

The Commercial Corridor future land use classification is characterized as areas located along major thoroughfares such as Highway 127 and Springs Road that will be developed for commercial use. Development will be automobile focused, while providing adequate pedestrian accommodations (HBC 2030, Page 3.7). Development within the Commercial Corridor designation is designed to protect residential areas, encourage connectively and community open space, and alleviate conflicts in land use (HBC 2030, Page 3.10). Hickory by Choice 2030 lists the CC-2 zoning district as being the implementing zone for this future land use classification.

The Low Density Residential future land use classification is characterized as an area with single-family housing, larger average sized lots, open space, and preservation (HBC 2030, Page 3.6). This classification is intended to function as a transition between rural areas and higher density housing by offering a mixture of development including large lot single-family homes, duplexes, and cluster subdivisions that preserve open space and natural features (HBC 2030, Page 3.9). Hickory by Choice 2030 goes on to list the R-1 district as the implementing zone for this future land use classification.

Section 1.7 of the Hickory Land Development Code contains its Stated Purpose and Intent. This section contains five (5) specific items which the Land Development Code is intended to uphold. These are as follows:

- Implement the Hickory by Choice 2030 Comprehensive Plan;

The applicants have not indicated any specific uses related to the (re)development of the properties, therefore all potential uses within the CC-2 zoning district should be reviewed during the decision-making process. The rezoning area is shown by Hickory by Choice 2030 to be within an area that is intended to provide commercial corridor development and low density residential. The future use of the properties with commercial development located along Highway 127 and low density residential along the rear would be consistent with the HBC 2030 plan.

- Preserve and protect land, air, water and environmental resources and property values;

Any and all improvements that are to take place on the properties will be required to follow all applicable development regulations.

- Promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resource and governmental expenditures;

The subject properties are located directly off of Highway 127, which is a major north-south thoroughfare through the City of Hickory that contains a mixture of commercial

and residential uses. Public utilities (water and sewer) are also located within close proximity to the subject properties. Any future development that occurs on the properties will be evaluated as to what impacts, if any, will be placed upon nearby public infrastructure. The owner and/or developer of the properties will be required to cover any financial costs needed for any required infrastructure improvements identified through the evaluation process.

- Regulate the type and intensity of development; and

This Hickory Land Development Code regulates the type and intensity of development that is located on the subject properties. Development plans for the properties, once received, will be reviewed in light of the regulations contained within the Hickory Land Development Code.

- Ensure protection from fire, flood and other dangers.

Any future development occurring on the subject property will be required to adhere to all state and local building, fire, and flood zone related development regulations. Such regulations will ensure proper protections are provided for the patrons of the subject properties, as well as the residents of the surrounding area.

2. Existing land uses within the general vicinity of the subject properties **(Please refer to Map 2 for more detail):**

North: *The properties to the north are occupied by single-family residential and open space;*

South: *The properties to the south are occupied by a gas station, restaurant, and shopping center;*

East: *The properties to the east are occupied by a multi-tenant retail store, a mini-storage facility, and single-family residential; and*

West: *The properties to the west are occupied by various retail businesses.*

3. The zoning classification of property within the general vicinity of the subject properties **(Please refer to Map 3 for more detail):**

North: *The properties to the north are zoned Low Density Residential (Catawba County R-20);*

South: *The properties to the south are zoned Highway Commercial (Catawba County H-C) and Commercial Corridor (CC-2);*

East: *The properties to the east are zoned Low Density Residential (Catawba County R-20), Highway Commercial (Catawba County H-C), and Commercial Corridor (CC-2); and*

West: *The properties to the west are zoned Highway Commercial (Catawba County H-C) and Commercial Corridor (CC-2) and Low Density Residential (Catawba County R-20);*

4. The suitability of the subject properties for the uses permitted under the existing and proposed zoning classification:

The subject properties are currently zoned Low Density Residential (R-1), with one of properties also being partially zoned Commercial Corridor (CC-2). The request is to rezone portions of all three properties from R-1 to CC-2.

If the properties were to be redeveloped using the existing zoning classification, a retail establishment could be developed on the roughly one acre of land already zoned CC-2. The remaining ~28 acre portion of the three properties, zoned R-1, would allow for a new subdivision of homes if a street was constructed off of S NC 127 Highway. These homes could be either single-family, duplexes, or a mixture of both. At a maximum of two dwelling units per acre, up to 56 units could be constructed, although this number would drop, given the need for new road infrastructure. This level of development would be consistent with surrounding area.

The proposed rezoning to the Commercial Corridor zoning district would provide significant commercial, institutional, and high density residential potential to the rezoned area. Under CC-2 zoning district, the property could be developed for multiple office and retail based establishments, institutional facilities, or could include new apartment structures. A new road would need to be constructed to allow development of the R-1 zoned areas. The commercial development of the properties would be reasonable given its proximity to Highway 127, a major thoroughfare connecting the Mountain View community to downtown Hickory and presence of neighboring commercial establishments.

5. The extent to which zoning will detrimentally affect property within the general vicinity of the subject properties:

The rezoning has the potential to detrimentally impact properties in the general vicinity. However; through proper site planning, buffering, and screening as required by the City's Land Development Code, any real or perceived detrimental impacts will be mitigated to maximum extent practical.

6. The extent to which the proposed amendment (zoning map) will cause public services including roadways, storm water management, water and sewer, fire and police protection to fall below acceptable levels.

During the development review process any identified developments impacts upon the items listed above will be evaluated, and the owner / developer will be required to mitigate any deficiencies to the maximum extent practical, or required by law.

The Highway 127 South corridor is currently reaching traffic volume capacity through the Mountain View area according to the Greater Hickory Metropolitan Planning Organization (MPO) 2040 Long Range Transportation Plan (LRTP). NCDOT AADT counts from 2013 indicate that between 16,000 to 17,000 vehicles travel along the 3100 block of S NC 127 Highway daily. Based on preliminary discussion with NCDOT and MPO officials, the level of service rating is currently E, which is the second lowest score given for measuring road capacity. The LRTP recommends that Highway 127 be widened to a 4-lane divided boulevard with a grass median from Zion Church Road to Huffman Farm Road. The LRTP

then recommends widening the road to connect with NC Highway 10. There is no funding or timeline for these widening projects as of July 2016. Given the size of the subject properties, redevelopment of any form will likely add to the traffic volume challenges.

Public utilities (water and sewer) are available to the properties and would need to be extended on site (at the developer's cost), if full development of the properties is to occur.

The properties were annexed into the City of Hickory in 2006 and are currently served by the Hickory Fire Department and Police Department. Fire Station 7 is located 3.6 miles from the properties and the Police Department's Edward PACT is responsible for law enforcement at these locations.

7. The proposed amendment (zoning map) will protect the public health, safety, and general welfare.

The properties in question are located within an area where the City's comprehensive plan, Hickory by Choice 2030, anticipated providing commercial corridor development. Any future (re)development that occurs of the subject properties as the result of the zoning map amendment, will be required to be adhere to regulations related to zoning, building and fire code, traffic, stormwater, etc.; which will work in conjunction with one another to ensure the health and safety of residents and visitors are properly protected.

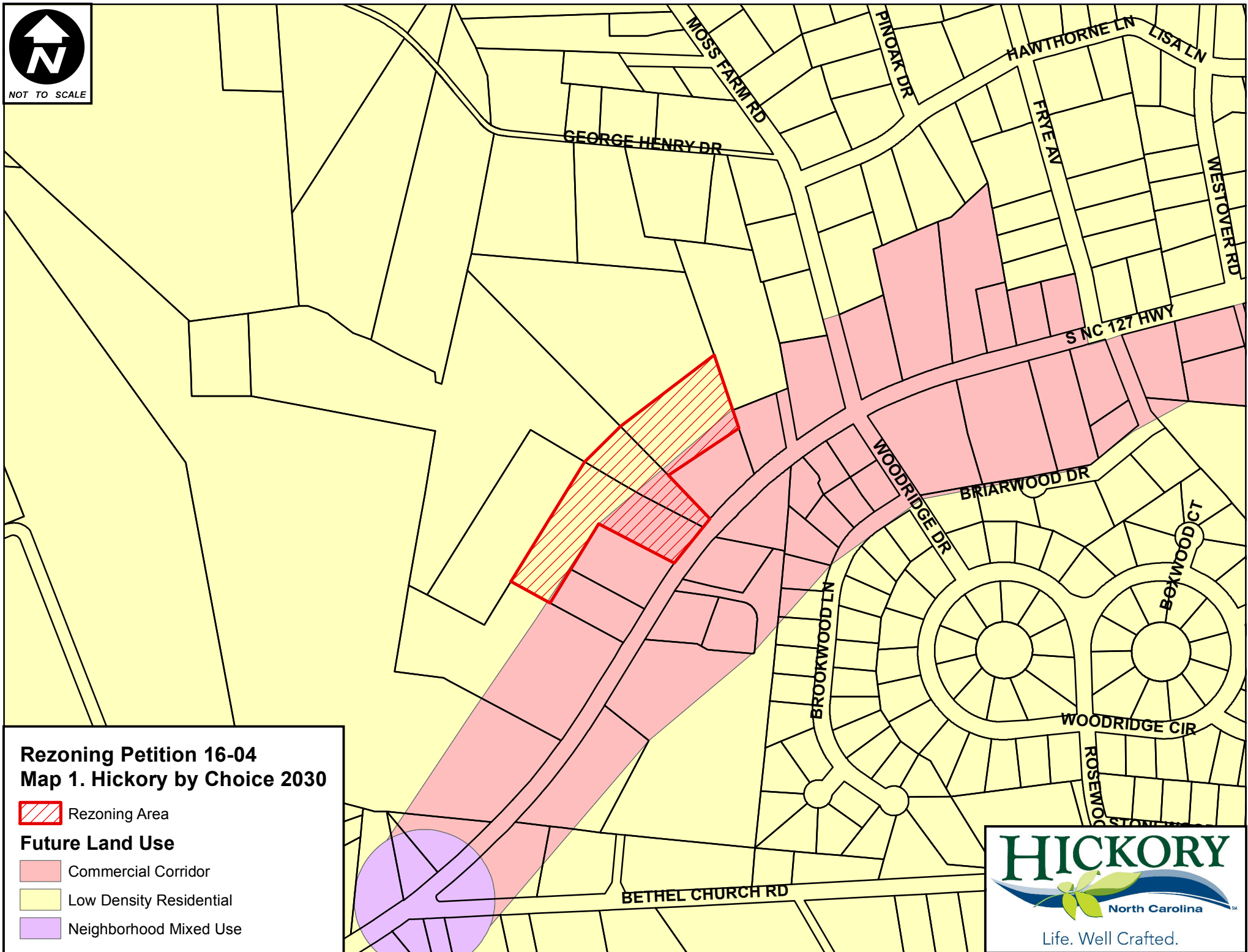
RECOMMENDED ACTION:

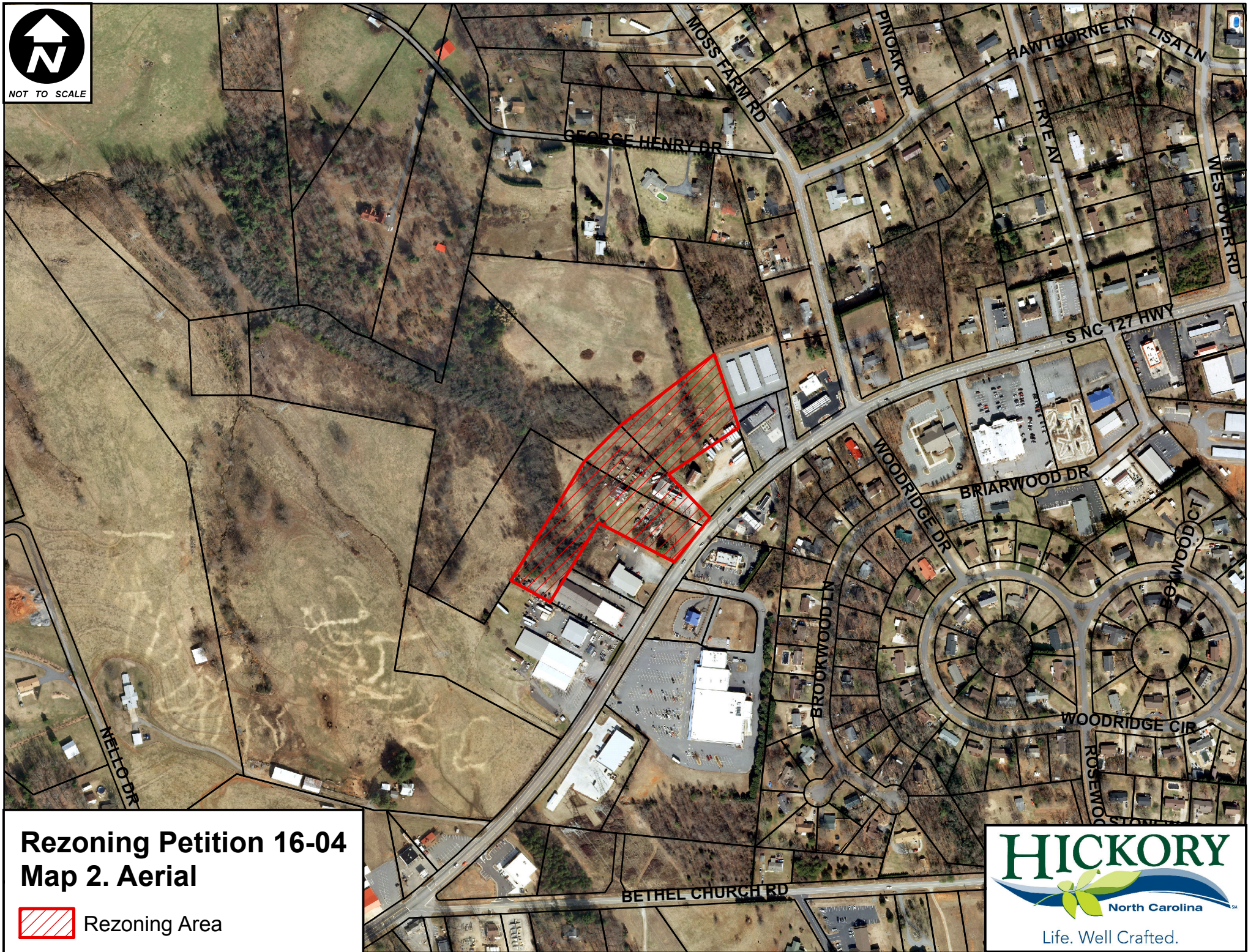
Staff finds Rezoning Petition 16-04 to be consistent with the Hickory by Choice 2030 Comprehensive Plan, and recommends the following:

1. The Hickory Regional Planning Commission adopt a statement affirming the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan; and
2. Forward a recommendation of approval to the Hickory City Council.

CITIZEN INPUT:

As of July 19, 2016, staff has not received any phone calls regarding this rezoning petition.





Rezoning Petition 16-04 Map 2. Aerial



Rezoning Area





Rezoning Petition 16-04 Map 3. Zoning Districts



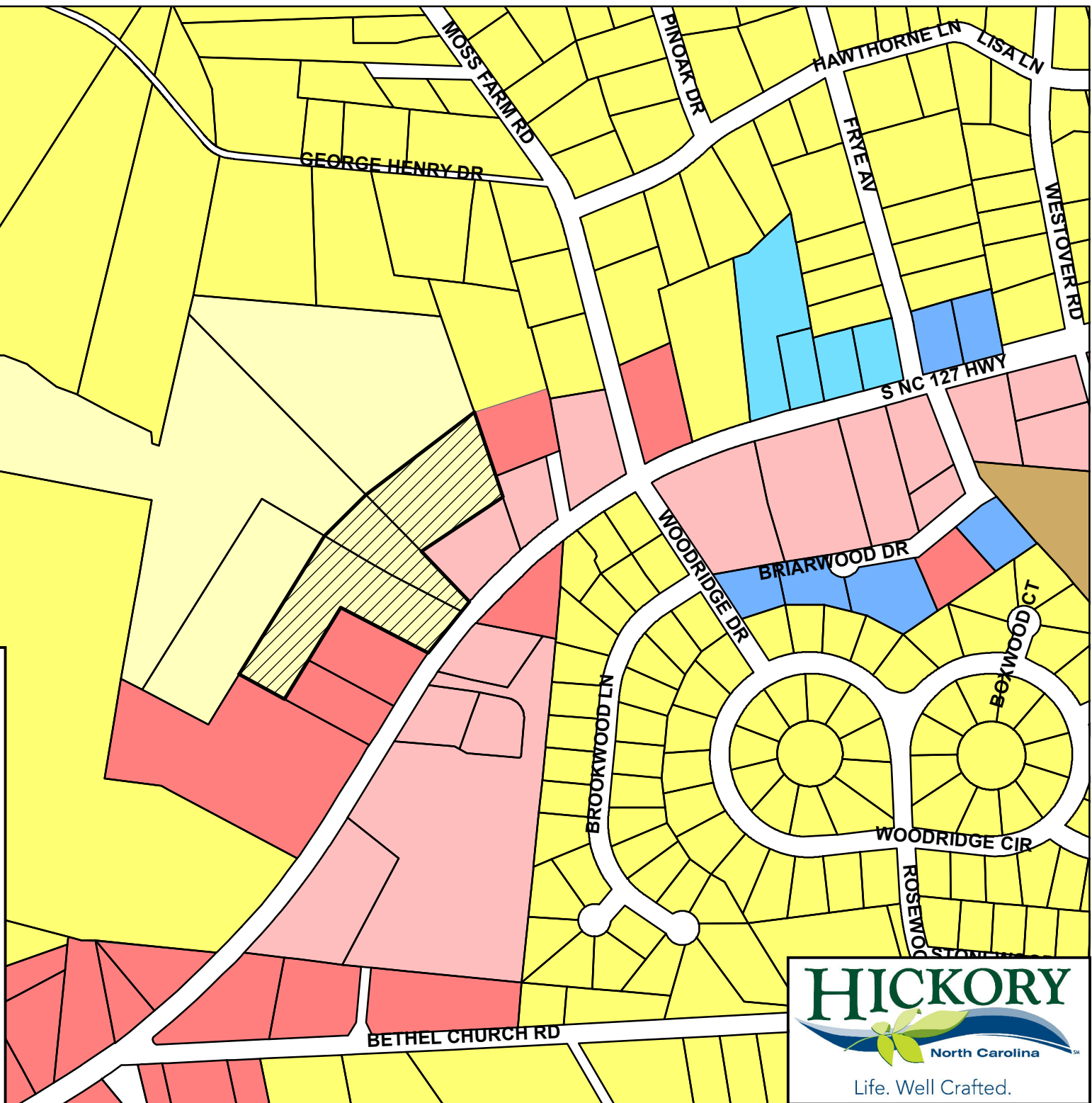
Rezoning Area

Hickory Zoning

- CC-2 (Commercial Corridor)
- OI (Office & Institutional)
- R-1 (Low Density Residential)

Catawba County Zoning

- HC (Highway Commercial)
- O-I (Office & Institutional)
- PD (Planned Development)
- R-20 (Residential)



REZONING ANALYSIS

PETITION: Rezoning 16-05

APPLICANT: Steve Smart

OWNER: FJS & JG, LLC

PROPERTY LOCATION: 5251 Hickory Blvd (US 321)

PIN: 2793-39-9764 (Caldwell County)

WARD: The property is currently located in Ward 5 (Councilman Zagaroli).

ACREAGE: 1.014 acres (44,169.84 ft²). Note: The rezoning area is a portion of a larger 3.084 acre parcel, and if rezoned these areas will be subdivided from the larger tract to create two new parcels.)

REQUESTED ACTION: The applicant has submitted a petition requesting the subject property be rezoned from General Business (C-2) to Medium Density Residential – 2 (R-2). The proposed action constitutes what is commonly referred to as downzone, which means the requested zoning district is less intense than the current district.

BACKGROUND: The property is currently zoned General Business (C-2), and vacant; however as noted above, the rezoning area is part of a larger tract that is occupied by a now vacant restaurant.

The owners of the property desire to rezoned the two areas shown on the attached maps to a residential zone, with the intent being an effort to obtain two (2) residential pier permits from Duke Energy.

DEVELOPMENT POTENTIAL: The current General Business (C-2) district is characterized by the City's Land Development Code as being a commercial district intended to provide a full range of retail and services businesses that serves both local and regional markets. The requested medium Density Residential – 2 (R-2) district is characterized as a district providing for the location of single-family residences on moderately sized parcels.

If the requested areas are rezoned and subdivided, as the owners desire the parcels could be developed for the sites of two (2) single-family dwellings.

REVIEW CRITERIA: In reviewing and making recommendations on proposed zoning map amendments, review bodies shall consider the following factors:

1. Consistency of the proposed zoning with the *Hickory Comprehensive Land Use and Transportation Plan* and the stated Purpose and Intent of this Land Development Code **(Please refer to Map 1 for more detail);**

The general area is classified as General Business by the Hickory By Choice 2030 Comprehensive Plan. (Note: The Hickory By Choice 2030 Comprehensive Plan's Future Land Use map does not contain parcel line data, as the general boundaries of the land use categories are not concrete.)

The Hickory by Choice 2030 plan does not specifically reference this particular portion of US 321, but the plan's future land use map identifies the area as being an area that

could accommodate a variety of commercial and office uses. It should also be noted, the much of the area adjacent to the subject property in the jurisdictional area of Caldwell County, is zoned specifically for single- family residential uses.

Section 1.7 of the Hickory Land Development Code contains its Stated Purpose and Intent. This section contains five (5) specific items which the Land Development Code is intended to uphold. These are as follows:

- Implement the Hickory by Choice 2030 Comprehensive Plan;

As outlined above, the subject properties are located in an area classified as General Business by the HBC 2030 Comprehensive Plan. This classification would be inconsistent with a rezoning to a single-family residential district. However, the owners are requesting that proposed rezoning, which, as previously stated, constitutes a downzoning of the property.

- Preserve and protect land, air, water and environmental resources and property values;

Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.

- Promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resource and governmental expenditures;

The subject property is located on Hickory Boulevard (US 321), which is a major regional transportation artery. Public infrastructure currently in place in the area is sufficient to handle the type of development possible on the subject property.

- Regulate the type and intensity of development; and

Any future development that takes place on the subject property will be regulated by current and future development standards duly adopted by the City of Hickory and the State of North Carolina.

- Ensure protection from fire, flood and other dangers.

Any future development occurring on the subject property will be required to adhere to all state and local building, fire, and flood zone related development regulations. Such regulations will ensure proper protections are provided to ensure surrounding residents, and employees are properly protected as prescribed by law.

2. Existing land uses within the general vicinity of the subject property **(Please refer to Map 2 for more detail):**

North: *The properties to the north, and to the north across Hickory Boulevard (US 321) are currently either occupied by single family residences or are vacant.*

South: *The properties to the south are across Lake Hickory are currently vacant;*

East: *The properties to the east across Hickory Boulevard (US 321) are occupied by a marina and single-family residences; and*

West: The properties to the west are either occupied by single-family attached residences, or are vacant.

3. The zoning classification of property within the general vicinity of the subject property **(Please refer to Map 3 for more detail):**

North: The properties to the north and to the north across Hickory Boulevard (US 321) are zoned Medium Density Residential – 2 (R-2) by the City of Hickory and R-20 Residential by Caldwell County;

South: The properties to the south across Lake Hickory are zoned Industrial (IND);

East: The properties to the east across Hickory Boulevard (US 321) are zoned General Business (C-2) by the City of Hickory and R-20 Residential by Caldwell County; and

West: The properties to the west are zoned Medium Density Residential -2 (R-2) by the City of Hickory and R-20 Residential by Caldwell County.

4. The suitability of the subject property for the uses permitted under the existing and proposed zoning classification:

The subject property is currently zoned General Business (C-2), and as earlier noted is part of a larger commercially developed site. The request is to rezone the property to Medium Density Residential -2 (R-2). The areas in question, as currently zoned, could possibly be further expanded for commercial purposes. The requested residential zoning is similar to other properties in the vicinity, so its introduction would not be dissimilar to the general area.

5. The extent to which zoning will detrimentally affect properties within the general vicinity of the subject property:

The requested residential zoning district is actually much less intense than the current commercial zoning. The rezoning of the property to residential will have less of an impact than any potential future commercial expansion.

6. The extent to which the proposed amendment (zoning map) will cause public services including roadways, storm water management, water and sewer, fire and police protection to fall below acceptable levels.

Adequate public infrastructure is available in sufficient quantities to serve future development on the subject property, with the exception of sanitary sewer which may need to be expanded if development beyond the residential piers is proposed. Any such expansions shall be the responsibility of the owners and their successors..

7. The proposed amendment (zoning map) will protect the public health, safety, and general welfare.

The property in question is located within an area where the City's comprehensive plan, Hickory by Choice 2030, anticipated providing additional properties for development. Any future development that occurs of the subject property as the result of the zoning map amendment, will be required to be adhere to regulations related to zoning, building and fire code, traffic, stormwater, etc.; which will work in conjunction with one another to ensure the health and safety of residents and visitors are properly protected.

RECOMMENDED ACTION:

Staff finds Rezoning Petition 16-03 to be inconsistent with the Hickory by Choice 2030 Comprehensive Plan, and recommends the following:

1. The Hickory Regional Planning Commission adopt a statement acknowledging the petition's inconsistency with the Hickory by Choice 2030 Comprehensive Plan; and
2. Forward a recommendation of approval to the Hickory City Council.

CITIZEN INPUT:

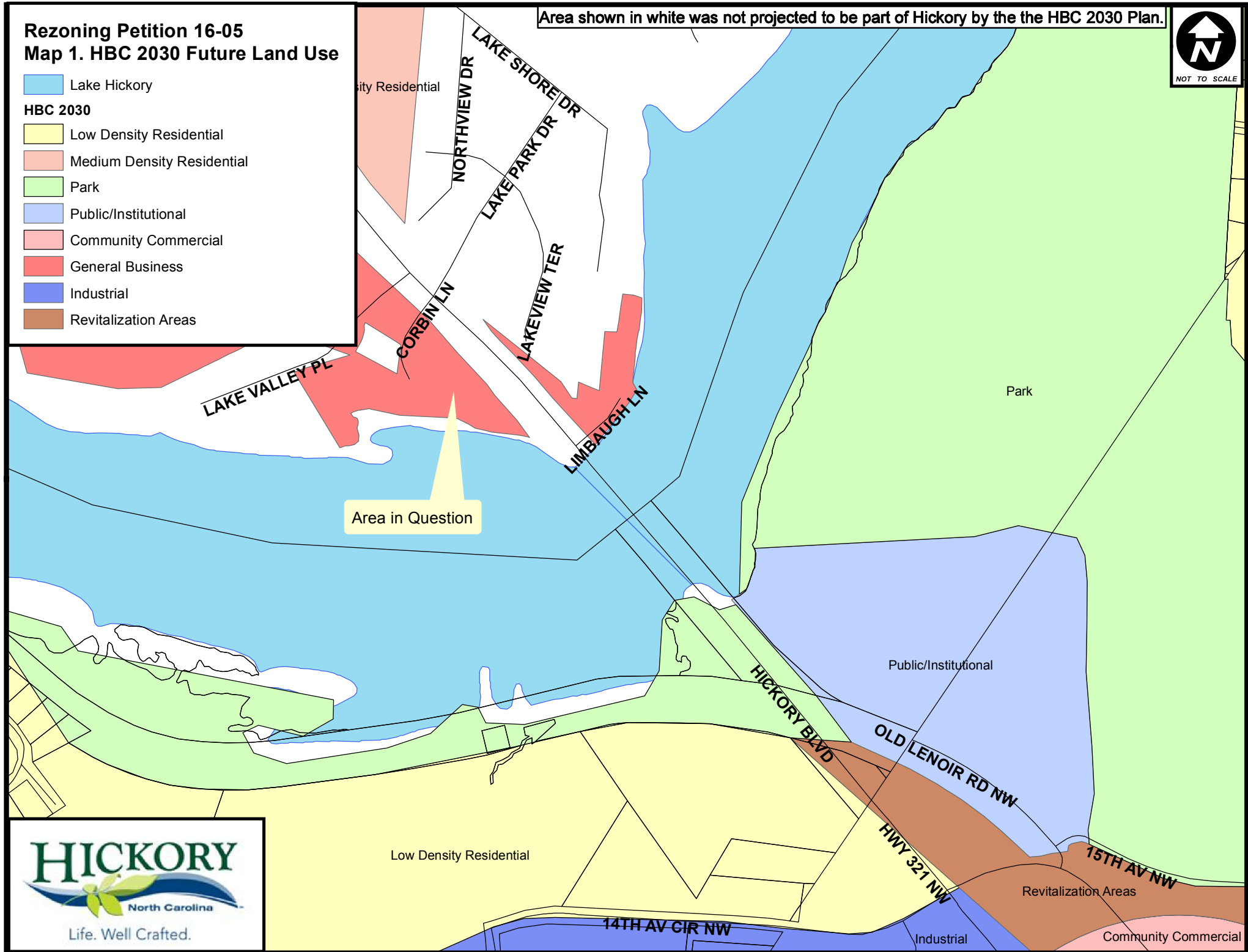
Staff has not received any inquiries regarding the requested rezoning.

Rezoning Petition 16-05

Map 1. HBC 2030 Future Land Use


- Lake Hickory
- HBC 2030**
- Low Density Residential
- Medium Density Residential
- Park
- Public/Institutional
- Community Commercial
- General Business
- Industrial
- Revitalization Areas

Area shown in white was not projected to be part of Hickory by the the HBC 2030 Plan.



Rezoning Petition 16-05

Map 2. Surrounding Land Uses

 Rezoning Area



Rezoning Petition 16-05 Map 3. Existing Zoning



Rezoning Area



Lake Hickory

Hickory Zoning



Medium Density Residential (R-2)



General Business (C-2)



Industrial (IND)

Caldwell County Zoning



R-20 Residential

